

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

PEANUTS WORLDWIDE LLC,

Plaintiff,

v.

THE PARTNERSHIPS and
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A”,

Defendants.

Case No. 20-cv-07286

Judge Jorge L. Alonso

Magistrate Judge Jeffrey Cummings

**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF’S
MOTION FOR ENTRY OF A PRELIMINARY INJUNCTION**

Plaintiff Peanuts Worldwide LLC (“Plaintiff”) submits this Memorandum of Law in support of its Motion for Entry of a Preliminary Injunction.

MEMORANDUM OF LAW

I. INTRODUCTION

Plaintiff Peanuts Worldwide LLC (“Plaintiff”) brings the present action against the defendants identified on Schedule A to the Complaint (collectively, “Defendants”) for federal trademark infringement and counterfeiting (Count I) and false designation of origin (Count II). As alleged in Plaintiff’s Complaint [1], the Defendants are promoting, advertising, distributing, offering for sale, and selling products using infringing and counterfeit versions of Plaintiff’s federally registered trademarks, unauthorized copies of Plaintiff’s federally registered copyrighted designs, or both (collectively, the “Unauthorized Peanuts Products”) through at least the fully interactive, e-commerce stores¹ operating under the seller aliases identified in Schedule A to the Complaint (the “Seller Aliases”).

II. STATEMENT OF FACTS

On December 21, 2020, this Court granted Plaintiff’s *Ex Parte* Motion for Entry of a Temporary Restraining Order (“the TRO”). [22]. The TRO authorized Plaintiff to provide notice of these proceedings and the preliminary injunction hearing to Defendants by electronically publishing a link to the Complaint, the TRO and other relevant documents on a website and by sending an e-mail to the e-mail addresses identified in Exhibit 3 to the Declaration of Carrie J. Dumont and any e-mail addresses provided for Defendants by third parties that includes a link to said website. [22] at ¶ 7. On January 4, 2021, this Court granted Plaintiff’s *Ex Parte* Motion to Extend the Temporary Restraining Order until January 19, 2021. [29]. Since and pursuant to entry of the TRO, financial accounts associated with the Seller Aliases have been frozen. *See* Declaration of Justin R. Gaudio (hereinafter, “Gaudio Declaration”) at ¶ 2. Plaintiff respectfully requests that this Court convert the TRO to a

¹ The e-commerce store urls are listed on Schedule A to the Complaint under the Online Marketplaces.

preliminary injunction against Defendants, so that they remain enjoined from the manufacture, importation, distribution, offering for sale, and sale of Unauthorized Peanuts Products during the pendency of this litigation. As part of the Preliminary Injunction, Plaintiff requests that Defendants' financial accounts remain frozen until completion of these proceedings.

III. ARGUMENT

A. A Preliminary Injunction Extending Relief Already Granted in the TRO Is Appropriate

Plaintiff respectfully requests that this Court convert the TRO to a preliminary injunction to prevent further unlawful conduct by Defendants. Courts addressing similar allegations of Internet-based counterfeiting have also issued preliminary injunctions following a temporary restraining order. *See, e.g., Deckers Outdoor Corporation v. The Partnerships, et al.*, No. 15-cv-3249 (N.D. Ill. May 6, 2015) (unpublished).

i. This Court Has Already Found that the Requirements for a Preliminary Injunction Have Been Satisfied

Since the standard for granting a TRO and the standard for granting a preliminary injunction are identical in this Circuit, the requirements for entry of a preliminary injunction extending the TRO have been satisfied. *See, e.g. Charter Nat'l Bank & Trust v. Charter One Fin., Inc.*, No. 1:01-cv-00905, 2001 WL 527404, *1 (N.D. Ill. May 15, 2001) (citations omitted). A temporary restraining order or preliminary injunction may be issued upon a showing that: "(1) there is a reasonable likelihood that Plaintiff will succeed on the merits; (2) Plaintiff will suffer irreparable injury if the order is not granted because there is no adequate remedy at law; (3) the balance of hardships tips in Plaintiff's favor; and (4) the public interest will not be disserved by the injunction." *Columbia Pictures Indus., Inc. v. Jasso*, 927 F. Supp. 1075, 1076 (N.D. Ill. 1996). By virtue of this Court's entry of the TRO, it has already found that the above requirements have been satisfied.

ii. The Equitable Relief Sought Remains Appropriate

The Lanham Act authorizes courts to issue injunctive relief “according to principles of equity and upon such terms as the court may deem reasonable, to prevent the violation of any right of the registrant of a mark” 15 U.S.C. § 1116(a).

Plaintiff requests conversion of the TRO to a preliminary injunction so that Defendants’ accounts remain frozen. Since entry of the TRO, Amazon has provided Plaintiff with information, including the identification of financial accounts linked to the Seller Aliases which were offering for sale and/or selling Unauthorized Peanuts Products. In the absence of a preliminary injunction, Defendants may attempt to transfer financial assets to offshore accounts. Therefore, Defendants’ assets should remain frozen for the remainder of the proceedings.

The amount of damages to which Plaintiff is entitled as set forth in the Complaint far exceeds any amount contained in any of the Defendants’ frozen financial accounts. For example, Plaintiff’s prayer for relief requests statutory damages of \$2 million from each Defendant. [1]. In addition, and as established in Plaintiff’s TRO Memorandum [11], many federal courts, including the Northern District of Illinois, have granted orders preventing the fraudulent transfer of assets. *See, e.g., Lorillard Tobacco Co. v. Montrose Wholesale Candies & Sundries, Inc.*, No. 1:03-cv-04844, 2005 WL 3115892 (N.D. Ill. Nov. 8, 2005). As such, an order continuing to freeze the Defendants’ assets should be granted.

IV. CONCLUSION

In view of the foregoing, Plaintiff respectfully requests that this Court enter the preliminary injunction.

Dated this 13th day of January 2021.

Respectfully submitted,

/s/ Justin R. Gaudio

Amy C. Ziegler

Justin R. Gaudio

Allyson Martin

Isaku M. Begert

Greer, Burns & Crain, Ltd.

300 South Wacker Drive, Suite 2500

Chicago, Illinois 60606

312.360.0080 / 312.360.9315 (facsimile)

aziegler@gbc.law

jgaudio@gbc.law

amartin@gbc.law

ibegert@gbc.law

Counsel for Plaintiff Peanuts Worldwide LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of January 2021, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, I will electronically publish the documents on a website and I will send an e-mail to the e-mail addresses identified in Exhibit 3 the Declaration of Carrie J. Dumont and any e-mail addresses provided for Defendants by third parties that includes a link to said website.

/s/ Justin R. Gaudio
Amy C. Ziegler
Justin R. Gaudio
Allyson Martin
Isaku M. Begert
Greer, Burns & Crain, Ltd.
300 South Wacker Drive, Suite 2500
Chicago, Illinois 60606
312.360.0080 / 312.360.9315 (facsimile)
aziegler@gbc.law
jgaudio@gbc.law
amartin@gbc.law
ibegert@gbc.law

Counsel for Plaintiff Peanuts Worldwide LLC